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PUBLIC REASON AND MORAL REPAIR

by

LUKE LARSON

Under the Direction of Andrew I. Cohen, PhD

ABSTRACT

I argue that both major approaches to public reason liberalism include duties of restraint for legislators. Consensus views require exclusion of non-public reasons, and convergence requires proposal restraint. Violations of these duties create *due diligence* duties of moral repair, which require the wrongdoer to make a genuine and reasonable effort to normalize moral relations with those wronged. I argue that apology is one favorable route for moral repair. However, it is difficult to assess the sincerity of apologies, so they often need supplemented with other morally compensatory actions. I defend the view that, on consensus accounts, legislators must provide a renewed defense of their positions in terms of public reasons, and, on convergence accounts, legislators must retract their support for positions that violate convergent restraint.

INDEX WORDS: Public reason, Moral repair, Consensus, Convergence, Apology, Public justification

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LUKE LARSON

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2020

PUBLIC REASON AND MORAL REPAIR

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DEDICATION

This thesis is dedicated to my loving parents, Cory and Susan Larson, for their loving support throughout my life. Thank you for helping me pursue several impactful academic experiences over the last six years.

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1 INTRODUCTION

Public reason liberalism is a strand of contemporary moral and political thought that focuses on the issues of public deliberation and public justification in liberal democratic societies. It developed out of the social contract tradition, most notably through the work of John Rawls. Political liberals generally agree that public justification requires that a law be justifiable to each citizen subject to it and that there is some principle of restraint on the kinds of reasons that are permissible in public deliberation.¹ Laws that do not meet a given conception's standard of public justification are unjustifiably coercive and immoral according to that conception of public reason. Political liberals sometimes disagree, however, about the standards of public justification and the principles that are necessary to regulate public deliberation. According to some political liberals, public justification requires a consensus on a single shared reason. On this view, each individual citizen must recognize a single, shared reason as meeting the justificatory standard for a law. Other political liberals maintain that public justification simply requires agreement that a law is justified according to a shared family of reasons. On this alternative view, individual citizens may support the law for different reasons.

Recently, theorists have started to refer to views similar to Rawlsian political liberalism as consensus public reason liberalism. This is in response to the emergence of an alternative approach to answering the questions raised by the issues of public justification and public deliberation. Gerald Gaus and Kevin Vallier (among others) developed the alternative *convergence* view primarily in response to Rawlsian takes on these issues raised in public reason debates. Convergence liberals tend to focus on the issue of public justification, and they argue that a law is justified if and only if all citizens subject to it have reason to support it. Thus, unlike political

¹ I use “public reason liberalism” and “political liberalism” interchangeably. This tradition includes figures such as John Rawls, Lori Watson, Christie Hartley, Jonathan Quong, Stephen Macedo, Andrew Lister, and many others.

liberals, convergence theorists require all citizens to converge on the judgement that a law is justified even if they have different reasons. On the other hand, political liberals require a consensus on the reason(s) for justification.

Understandably, much of the literature concerning the debate between consensus and convergence liberals focuses on their differences. However, my aim here is to examine a possible point of agreement among proponents of these two opposing views. This point of agreement concerns the aftermath of wrongdoing in public reason discourse. By public reason discourse, I mean discourse pertaining to fundamental political questions that takes place in the public political forum and restrained by duties to offer public reasons. Both schools of thought agree that there can be attempts at public justification or actions in public deliberation that are morally problematic. There are certain types of reasons and proposals that one cannot offer in the public political forum without wronging other citizens by disrespecting them. If it is morally wrong to treat citizens in such a manner, then perhaps public reason liberalism suggests steps that a wrongdoer must take to rectify such wrongdoing.

The commitments of both consensus and convergence liberalism constrain conduct in the public sphere. I argue that these constraints also include one's conduct in light of wrongdoing. When one violates their duties of conduct in the public sphere, they are morally required to engage in moral repair. In what follows, I examine the concept of moral repair and its relation to consensus and convergence views. Focusing on the conduct of public officials, I argue that proponents of both views ought to favor requirements for some sort of moral repair. I examine part of what this repair might entail. I argue that moral repair in such cases requires a public official in violation of their duty of civility (as it is called by political liberals) in the public political forum to offer an apology. This apology requires recognition that one's previous reasoning violated the norms of

public reason. Therefore, if they intend to remain in support of the position previously defended, they now have a duty to defend that position in terms of acceptably or appropriately public reasons. If they cannot do so, they ought to apologize for the wrongdoing and retract support for the position.

The paper proceeds as follows. In the first section, I draw on the work of Rawls to clarify the domain of public reason and frame the discussion that follows in a specific context—the public political forum of a liberal constitutional democracy. In section II, I then examine the arguments offered by both consensus and convergence theorists for limitations on conduct in this forum. In the third section, I introduce the concept of moral repair and argue that both schools of thought favor some form of moral repair in the aftermath of wrongdoing in the public political forum according to the arguments presented in the second section. Finally, in the fourth section, I examine the different types of repair that might be appropriate or required in such cases and how wrongdoers might go about fulfilling such duties of repair. I argue for a due-diligence form of moral repair that includes a requirement to offer an apology. Furthermore, the official is morally required to offer public reasons in support of their policy position or proposal if they are not willing to retract support for it. If they refuse to either retract support for the position or defend it in terms of public reason, then the apology is meaningless and the wrong persists.

2 THE DOMAIN OF PUBLIC REASON

This section provides a brief overview of the public reason project. I begin by drawing attention to several key issues in debates concerning public reason in order to clarify the differences between consensus and convergence views. I then turn to Rawls's account of the public political forum. This is what we might call the domain of public reason. Finally, I conclude this section by limiting

the scope of this paper to a particular context in which I think consensus and convergence theorists can agree—public officials debating public policy or law in the public political forum.

Convergence and consensus liberals disagree on many key issues in the public reason debate. Among them are questions concerning what constitutes a public reason, who is required to give public reasons, in what discussion contexts or circumstances such persons are required to utilize public reasons, and what types of policies or laws require public reason-based justifications. The first of these issues is the content of public reason, and consensus theorists typically take a stricter approach to determining which reasons qualify as public than convergence theorists. For example, Rawls limits the content of public reasons to values given by the family of liberal conceptions of justice that are present in the culture of a liberal constitutional democracy.²

According to Rawls, there are three characteristics of political conceptions of justice:

First, their principles apply to basic political and social institutions (the basic structure of society);

Second, they can be presented independently from comprehensive doctrines of any kind (although they may, of course, be supported by a reasonable overlapping consensus of such doctrines); and

Finally, they can be worked out from fundamental ideas seen as implicit in the public political culture of a constitutional regime, such as the conceptions of citizens as free and equal persons, and of society as a fair system of cooperation.³

Rawls calls conceptions of justice that meet these three criteria freestanding.⁴ This means that they do not depend on a comprehensive moral, political, or religious conception of the good life.

Rawls also identifies several criteria a conception of justice must meet to be a liberal one. These are the following:

First, a list of certain basic rights, liberties, and opportunities (such as those familiar from constitutional regimes);

² Rawls (1997) p. 776.

³ Rawls (1997), p. 776.

⁴ Rawls (2005), p. 12. In Rawls (1997), he also calls such views ‘self-standing.’ This is another way of emphasizing that *political* conceptions of justice are independent of comprehensive *moral* conceptions of the good.

Second, an assignment of special priority to those rights, liberties, and opportunities, especially with respect to the claims of the general good and perfectionist values; and

Third, measures ensuring for all citizens adequate all-purpose means to make effective use of their freedoms.⁵

It is reasonable to conclude that a liberal society will include multiple conceptions of justice that satisfy Rawls's criteria of being both liberal and freestanding political conceptions of justice. The content of public reason consists of the shared principles that develop out of liberal, freestanding conceptions of justice.

The diversity of comprehensive doctrines that exist in a liberal democratic society —along with a requirement that laws are justifiable—motivates the public reason project. In a society guaranteeing freedom of thought and conscience, we cannot reasonably expect citizens to agree on the correct comprehensive doctrine. Rawls calls this the fact of reasonable pluralism.⁶ Such pluralism is a permanent fact of life in a liberal democracy. Public reason theorists on both sides of the consensus-convergence debate recognize and accept the fact of reasonable pluralism as a jumping off point for public reason theorizing.

Rawls defends taking reasonable pluralism for granted by appealing to what he calls the burdens of judgment. He provides an incomplete list of six burdens, which include conflicting scientific evidence, different weighting systems of values, vague cases, and so on.⁷ The burdens of judgement explain why it is reasonable for citizens to disagree on the many matters that make up their different comprehensive conceptions of the good. Given the burdens of judgement, rational and reasonable persons in a free society can understandably reach different conclusions about the good.⁸ Individuals can reasonably disagree on important decision-making elements and

⁵ Rawls (1997), p. 774.

⁶ Rawls (2005), p. 63.

⁷ Rawls (2005), 56-7.

⁸ Rawls (2005), 56.

do not have complete epistemic access to all the information necessary to make a “perfect” decision about the good, whatever that would be. Since this disagreement is reasonable, it is not reasonable to justify coercive law according to reasons it would be reasonable for a citizen to reject. Therefore, we only count as public those reasons that are implicit in the culture of a liberal democratic society and we can reasonably expect citizens who adhere to a variety of comprehensive doctrines about the good life to support.⁹

There is an additional sense in which political liberals might also require that a reason be *public*. Reasons morally acceptable in public discourse are supported by the family of liberal conceptions of justice present in society, and citizens generally recognize them as acceptable reasons for individuals to appeal to in the process of public justification. Such reasons qualify as shared reasons. Shared reasons are reasons that are supported in liberal democratic societies independent of an individual’s particular comprehensive conception of the good life. Citizens can share such reasons since they do not stem from controversial conceptions of the good. Reasons that are commonly referred to as giving rise to shared public reasons in a liberal democratic society include values such as freedom, equality, fairness, solidarity, and civic friendship, among others. However, the particular set of values that are shared in a given society are determined by the set of liberal conceptions of justice that are present in that society.

On the other hand, convergence concepts of public reason discourse expand the content of public reason to include non-shared reasons. For example, Kevin Vallier concludes that a lower standard is all that is necessary for a reason to have a place in a conception of public reason. According to Vallier, a reason counts as a public reason as long as it is *intelligible*. Reasons are intelligible when “they are reasons that other citizens can see as reasons for them at the right level

⁹ Rawls (2005), 58-61.

of idealization.”¹⁰ This means that Reason *R* is intelligible to Citizen *A* if other citizens can recognize that *R* would fit with *A*’s framework of reasoning if *A*’s reasoning was idealized. Different conceptions idealize in various ways, but idealization is typically hashed out in terms of a combination of either rationality or reasonability and an information requirement. In other words, if *A* would (or could) accept *R* as a reason if they were to have relevant and adequate (or some other standard, such as “full”) information and were to reason according to some standard of rationality (or reasonableness), then *R* is intelligible. Thus, reasons are intelligible when citizens can recognize that they are justified to the ones who hold or advance them.¹¹ Vallier’s conception of convergence liberalism considers intelligible reasons sufficient for accepting or objecting to the public justification of a law.

The other questions mentioned briefly above—those concerning from whom and when public reason is required—have to do with the application or scope of public reason. Consensus theorists often disagree amongst themselves on the details of how to answer these questions, so there are various ways to conceptualize public reason liberalism. For example, Jonathan Quong argues that public reasons are required in order to justify most, if not all, coercive laws. Rawls, on the other hand, limits the scope to what he calls constitutional essentials and matters of basic justice. The former includes questions that ought to be answered in a written constitution while the latter includes questions concerning the organization, governance, and functioning of major economic and social institutions that make up the “basic structure” of society.¹² It is important to recognize that not all forms of consensus liberalism are the same.¹³ Neither are all forms of

¹⁰ Vallier (2015), p. 143.

¹¹ Vallier (2015), p. 143.

¹² Rawls (1997), p. 767.

¹³ See Watson and Hartley (2018) for a discussion on different formulations of political liberalism and how their view is both similar to and departs from Quong and Rawls.

convergence liberalism, and I have tried to highlight various ways in which conceptions might differ. For simplicity, I focus here on the more overarching distinction between consensus and convergence views because there is more difference between the two camps than amongst individuals within each camp. Moreover, I argue that these two camps both favor moral repair, and this is the case regardless of how individual conceptions flesh out the details to the many different questions public reason raises because any deviations among views are not significant enough to do away with restraint and conclusion all-together.

In terms of the application of public reason, consensus liberalism typically requires more of citizens generally than convergence liberalism by requiring citizens to offer public reasons in more situations and with a stricter bar for a reason to qualify as public. For example, a consensus theorist might go as far as to argue that public reasons are always morally required in public deliberations concerning law, such as between two strangers discussing policy on an internet forum or two friends at a church service. However, this would be the most restrictive and extreme position, and convergence theorists would certainly not accept such a stance. Neither do most political liberals. Rawls's account presented below rejects this stronger formulation of the demands that follow from the idea of public reason. More common are positions that limit requirements to offer public reasons to discussions taking place in the public political forum; however, some conceptions might require all citizens discussing public policy in the public political forum to offer public reasons. I focus here on the latter since this is a point of agreement among the various views. While some consensus theorists might wish to expand the domain of public reason, convergence and consensus alike can agree that engaging in public reason is morally required from public officials, such as judges, elected officials, or appointed government bureaucrats who have the power to influence law, policy, and their enforcement. I refer to

conceptions of how to answer questions regarding from who and in what contexts public reasons are required as determining the domain of public reason. I now turn to John Rawls's account of the domain of public reason since it is a possibility that convergence theorists can support this account.

Rawls bases his account of the domain of public reason on a distinction between what he calls the background culture of a society and the public political forum.¹⁴ Recall that we are only concerned here with liberal democratic societies. The public political forum of such societies consists of the reasoning and decision-making of judges, the discourse of government officials, and statements made by candidates for office or *official* campaign announcements or press releases made by campaign staff. In the public political forum, the normative requirements given by a conception of public reason apply. Individuals taking part in discourse in the public political form are required "engage in public reason," which means that they appeal to the values given by the family of liberal conceptions of justice present in a liberal democratic society, as discussed above.¹⁵ I follow Rawls in calling duties to engage in public reason duties of civility.¹⁶ Duties of civility might seem to extend to the everyday interactions between citizens. We might expect citizens to treat one another with respect, solidarity, and civic friendship. However, in the following discussion, the duty of civility is limited to public political discourse. I understand this duty as simply the requirement to defend one's positions in public political discourse in terms of public reasons.

Contrary to the public political forum, duties of civility do not exist in the 'background culture' of society. The background culture of a liberal constitutional democracy is its civil

¹⁴ This paragraph and the next draws on discussion throughout Rawls (1997).

¹⁵ Rawls (1997), p. 776.

¹⁶ Rawls (1997), p. 769.

society, which is made up by the non-political or non-governmental activities in which citizens regularly participate. Public reasons are not required in discourse taking place outside the public political forum. For example, churches, learning institutions, social clubs, and various other voluntary associations that citizens join are part of the background culture.¹⁷ Members of such groups are not bound by duties of civility in such contexts when engaging in political discourse. Two individuals playing a round of golf in their regular weekly league have no moral duty to refrain from appealing to their comprehensive conceptions of the good life when discussing a law or policy issue.

In what follows, I focus on violations of the duty of civility that take place within the public political forum. I argue that convergence and consensus theorists both support restrictions on the types of reasons that are morally acceptable in such a forum. Therefore, violations of duties to offer public reasons in discourse within the domain of public reason is morally wrong and requires some form of moral repair. Consider the following example of such a violation.

Imagine that the United States Senate is debating a bill that would allow Bible education in public schools and a Senator steps up to the podium and argues in favor of the bill. The Senator argues that the legislature ought to pass the bill because the Bible is the word of God. It is the whole truth; and, therefore, ought to be part of the educational requirements in American schools. Public officials and candidates for offices commonly offer such arguments in favor of religious education. Such occurrences are perhaps more likely to occur at the local level in relatively religiously homogenous communities, but it is not infrequent for such arguments to also be made at the state or national level. In addition, it is not difficult to imagine similar religion-based

¹⁷ Rawls (1997), p. 768.

arguments for a number of other issues, such as same-sex marriage and abortion, since these arguments are familiar in the public political culture of the United States.

I take it for granted that many citizens of a liberal constitutional democracy, such as that of the United States, find such reasoning problematic, especially coming from an elected government official. Moreover, it seems that it is not problematic simply because it is considered bad manners or out of place because, for example, such reasoning is acceptable in discourse between members of the same church. It is not problematic simply because the Senator is not at church. Although it appears that we do have a predictive expectation that government officials in liberal democratic societies *will not* make such arguments; more importantly, it seems there is a normative expectation many of us have that such arguments *should not* be made. Furthermore, this normative expectation seems to stem from more than culture or tradition. Such reasoning is not simply problematic because it is a violation of the supposed separation of church and state that is foundational in the American public forum. The Senator's reasoning is not simply out of place based on such constitutionally influenced sentiments or tradition.

The Senator's reason strikes us as inappropriate because it seems to violate a moral standard. This is because it takes place in the public political forum, which is the domain of public reason. This means that the Senator is bound by and in violation of their duty of civility. It is *morally wrong* for an elected official who takes part in the law-making process to attempt to justify their policy positions by reference to a religion (or any comprehensive conception of the good life that they cannot reasonably expect citizens generally to share). Public reason liberalism offers a way to explain why such conduct is morally wrong. It is morally wrong because individuals have a moral duty to engage in public reason in the public political forum. It is a violation of the *moral* duty of civility according to political liberalism.

3 EXCLUSIONARY PUBLIC REASON

The Rawlsian moral duty of civility manifests in a requirement for individuals engaging in public reason discourse to refrain from appealing to certain kinds of reasons—those stemming purely from their comprehensive doctrines—in the process of public deliberation.¹⁸ In other words, the duty of civility requires citizens to *exclude* certain reasons from discourse in the public political forum. There are reasons that they should not appeal to in such contexts. We can call such accounts of public reason *exclusionary*. I established above that our fictional Senator is in violation of his duty of civility as Rawlsian political liberals understand that duty, but this explanation relies only on Rawls's account of the public political forum. The Senator has failed to exclude certain types of reasons from their deliberations and attempt at public reason justification. There is more to an account of public reason that explains its exclusionary character beyond an understanding of the public political forum. There are underlying moral principles that give rise to the restrictions that regulate conduct in the public political forum. However, convergence theorists do not agree consensus theorists on the details for ruling out certain considerations from public political forums. They support an account of public reason that is exclusionary in a different sense .

In this section, I examine the different ways in which we can understand consensus and convergence accounts as presenting exclusionary accounts of public reason. Despite these differences, I argue that both approaches to exclusionary public reason include a duty of restraint in the public political forum and our fictional Senator is in violation of their duty of restraint on either account. Thus, the Senator commits a moral wrong according to both accounts of public reason.

¹⁸ It is important to recognize that the duty of civility is only a *moral* duty and not a legal one. Public reason liberals reject legal measures requiring one to engage in public reason.

3.1 Convergent Restraint

Kevin Vallier argues that one of the main differences between consensus and convergence liberals is the primary aim or way that they understand the public reason project. As a result, the approaches lead to two different emphases on the kinds of principles and duties that develop out of the basics of public reason. Vallier draws a distinction between principles of public deliberation and principles of public justification, and he maintains that consensus theorists tend to focus on the former and then argue that the latter develop out of deliberative principles. Vallier calls this the standard approach. The standard approach proceeds from a shared-reasons requirement regulating public deliberation to a shared-reasons requirement for a law to be publicly justified to citizens. On the other hand, Vallier concerns himself primarily with a principle of restraint with regard to public justification. He is critical of principles of deliberation and argues for a duty of restraint on proposals in the public political forum.

Vallier's convergence liberalism favors a duty of restraint on the proposals legislators offer rather than on the reasons that they give in favor of certain proposals.¹⁹ He calls this the *Principle of Convergent Restraint (PCR)*.²⁰ Vallier presents several forms of PCR before settling on the *Principle of Convergent Restraint for Legislators (PCRL)*. I only expand on PCRL since it is his final formulation and is perfectly applicable to the focus of this paper. PCRL only applies to legislators who influence the law-making process. It is as follows:

Principle of Convergent Restraint for Legislators (PCRL): A legislator should not vote for law L, or publicly encourage effective others to vote for L, if he justifiably believes that members of the public lack sufficient reason Rn to endorse [L].²¹

¹⁹ Vallier (2015), p. 139.

²⁰ Vallier 2015, p. 151.

²¹ Vallier (2015), p. 154. I have taken the liberty of editing this definition by including the final 'L' in brackets. This replaces an 'M' in the original publication. I attribute this to typographical error. There is no explanation of what 'M' might be a notation for and it is not present in other formulations of PCLR. 'L' or 'Law,' however, makes sense in its place and is consistent with the other formulations.

PCRL creates an exclusionary and moral duty of restraint in the public political forum. It restrains conduct by requiring legislators to refuse to support legislation that they do not think all citizens have sufficient intelligible reasons to support. Recall that intelligible reasons are those that citizens consider justificatory given that they reason ideally from within their own reasoning framework. This means that if a legislator thinks that there are citizens who have intelligible reasons to reject a piece of legislation, then, according to PCRL, the legislator ought not to vote for or encourage others to vote for the law.

PCRL restrains proposals by requiring officials to refrain from voting for or supporting laws that citizens might have intelligible reasons for rejecting. This differs from the Rawlsian duty of civility. Civility restrains officials by requiring them to exclude certain types of reasons for supporting laws. Using abortion legislation as an example, Vallier differentiates between proposal restraint and reason restraint.²² Civility prevents legislators from drawing on religious reasons in favor of abortion restrictions. It is morally wrong to argue that abortion restrictions should be legislated on such grounds because religious reasons ought to be excluded from public political discourse. On the other hand, proposal restraint requires that officials not support or vote for abortion restrictions because they recognize that other citizens have intelligible reasons for rejecting such legislation.

The important matter here is that both consensus and convergence views lead to duties of restraint. Although he rejects restraint on reasons, Vallier's conception of convergence liberalism is exclusionary. By excluding proposals from the class of morally acceptable conduct in the public political forum, it creates a duty of restraint for legislators voting on law and public policy. Moreover, this duty of restraint explains the wrongdoing of the fictional senator discussed above.

²² Vallier (2015), p. 144.

Even if we idealize only minimally, we can expect the Senator to recognize that there are citizens who have intelligible reasons to reject biblical education in schools. We do not need to assume that the Senator is perfectly rational and has complete information about their society to conclude that they must know that other citizens have intelligible reasons to oppose the law. PCRL states that legislators should not vote for or try to convince others to support a law that they can justifiably expect others to not have sufficient reason to support. We can reasonably expect a person with adequate information about the freedoms available and the diversity of views present in a liberal constitutional democracy to be aware that not all citizens have sufficient reason to support biblical education in schools on the grounds that it is the word of God. Thus, the Senator violates the moral duties of restraint that apply to legislators according to Vallier's conception of convergence liberalism. I now turn to restraint in political liberalism.

3.2 Restraint in Consensus Liberalism

In this section, I examine the manner in which consensus views of political liberalism are exclusionary. Unlike Vallier's convergence theory, this approach focuses on restraints on reasons. Duties of restraint are duties to exclude non-public reasons from one's arsenal of reasons when engaging in public political discourse. We have already seen one way that such duties manifest themselves. In Rawls's own work, judges, officials, and legislators have a moral duty of civility that requires them to offer public reasons to justify their judgements, proposals, or voting stances to other citizens. All citizens have a moral duty to offer public reasons for their positions when debating policy issues in the public political forum. In what follows, I set out the approach that political liberals typically use to defend the duty of civility. This is the argument that a general

moral duty of respect for persons engenders a duty to offer public reasons in the public political forum.²³

Rawlsian political liberals typically base their conceptions of public reason on a prior moral duty of respect for persons. Respect for persons is a general moral duty that engenders the duty of civility in the public political sphere. Recall that the duty of civility requires certain individuals—judges, legislators, executives, etc.—to “explain to other citizens their reasons for supporting fundamental political positions in terms of the political conception of justice they regard as the most reasonable.”²⁴

Since an elected official has the power to influence the creation and enforcement of laws, civility is a duty owed to all those citizens who are subject to those laws.²⁵ As such a duty, civility creates an expectation for citizens that they be treated a certain way. It must be the case that the laws a citizen is subject could be justifiable to them. If an individual is subject to laws that could not be justifiable to them, then the imposition of that law on that citizen is a violation of the respect that they are owed. The official bound by the duties of public reason *disrespects* the citizens subject to the law if the official provides comprehensive reasons for their stances rather than the appropriate public reasons.

The traditional approach to Rawlsian political liberalism includes conceiving of persons in a state as free and equal democratic citizens.²⁶ Political liberals take this conception of citizens for

²³ Lister (2013) defends an exclusionary account of political liberalism on the basis of civic friendship.

²⁴ Rawls (1997), p. 769.

²⁵ Following much of the public reason literature, I use “citizens” to refer to those individuals subject to the laws in a society. Traditional accounts include ideal theorizing and conceiving of society as a closed system where all members of society are citizens. This might not always be the case. When foreigners enter a state, they are not citizens, but they are subject to the laws. This raises important questions concerning the justifiability of laws to such persons. If the laws are not justifiable to them, are they subjects of immoral coercion when those laws are enforced? These issues are beyond the scope of this paper, so I set them aside. I conceive of society as containing only citizens, by which I mean those born in the state they inhabit.

²⁶ Watson and Hartley (2018) note that Quong (2011) is critical of this position, p. 47, n. 13. They accept this approach, which is argued for in Larmore (1999) and Larmore (2008) and perhaps implicit in Rawls’s work.

granted and are not concerned with trying to convince those who do not conceive of persons and society in this. This is simply how political liberals typically understand citizens as relating to one another in a society conceived of as a fair system of cooperation between moral equals.²⁷ This understanding of citizens as free and equal moral persons engaging in a system of social cooperation is the basis of consensus views public reason liberalism.

From this basis of understanding citizens as free and equal moral persons, political liberals develop a general duty of respect for persons. Charles Larmore's essay "The Moral Basis of Political Liberalism" presents an influential account of the role respect plays in political liberalism. One of Larmore's primary intentions was improve upon Rawls's account by making explicit political liberalism's commitment to respect as a foundational value.²⁸ Rawls argued for what he called the liberal principle of legitimacy. This idea is presented above, but not formally and without reference to Rawls. The liberal principle of legitimacy helps explain why public reason is required in the deliberation and justification processes. Rawls's account is as follows:

Liberal Principle of Legitimacy

Our exercise of political power is fully proper only when it is exercised in accordance with a constitution the essentials of which all citizens as free and equal may reasonably be expected to endorse in the light of principles and ideals acceptable to their common human reason.²⁹

This principle entails that codifying and enforcing laws that are not justifiable to all citizens are morally wrong. Exercising political power that is unjustified to the citizens subject to it represents a failure to treat them as free and equal. This principle is what Vallier calls a principle of justification, but recall that consensus accounts of public reason tend to be more concerned with deliberative principles. Convergence theorists, such as Vallier, typically accept a presumption

²⁷ Watson and Hartley (2018), p. 46-7.

²⁸ Larmore (1999), p. 606.

²⁹ Rawls (2005), p. 137.

against coercion.³⁰ Coercion is almost always morally wrong. Since the state has a monopoly on creating and enforcing law, state action is always coercive. Thus, the only way that exercises of state power are not morally wrong is if such coercive actions are justified to the citizens subject to that power. On the other hand, the reasons that an official appeals to in defense of their position in public deliberation are not themselves coercive, and restricting those reasons does not necessarily protect against the state being unjustifiably coercive.

Rawlsian political liberals are also concerned with principles of justification and limiting unjustified coercion by the state. The liberal principle of legitimacy is itself meant to express these concerns. Unless the law is justifiable to those subject to it, its enactment and enforcement is an illegitimate (and morally wrong) imposition of state power. However, they are also concerned with how individuals in the public political sphere engage in social cooperation. Moreover, supporting or voting for laws that are not justifiable to all citizens (Vallier's conception of exclusionary public reason) is not the only way in which officials involved in the law-making process can wrong the citizens subject to the laws. They can wrong citizens by failing to provide public reasons in support of their favored positions.

Larmore's account aims to provide both a clearer and more robust defense of deliberatively exclusive public reason by making explicit its moral foundation, which is a general moral duty of respect for persons. If we conceive of citizens as free and equal moral persons, then it is morally wrong to base coercion on mere force. As such persons, coercion must be justified to them. Thus, Larmore argues that the notion of respect that is most important in the context of political liberalism is an understanding that "to respect another person as an end is to require that coercion or political principles be as justifiable to that person as they presumably are to us."³¹ Failing to

³⁰ Vallier (2015), p. 145.

³¹ Larmore (1999), p. 608.

justify coercion to citizens is a failure to treat them as free and equal moral persons. Doing so treats them as means rather than moral persons who are ends in themselves and deserving of respect.³²

Convergent accounts of justificatory principles only require that the laws be justifiable *for* citizens.³³ As long as citizens have reasons to find a law justifiable, then the law is justifiable for them. On the other hand, consensus accounts include the element of deliberation by emphasizing the importance of justification *to* those subject to the law. Respecting citizens as free and equal moral persons requires engaging their capacity to reason.³⁴ Those with the power and responsibility to impose laws on citizens must present citizens with the reasons that they think justify the laws so that the citizens can exercise their capacity to reason and determine if they themselves find the law justifiable. The important question that remains is why these reasons must be public. Why does a general moral duty of respect that requires laws be justified *to* citizens morally bind legislators to defend a proposed law by appeal to public reasons rather than comprehensive reasons?

Public reasons can be found in the culture of a liberal constitutional democracy and do not depend on a particular comprehensive doctrine. They are reasons that all citizens can accept in virtue of shared liberal political values. Additionally, recall that political liberals understand society as a project of social cooperation. If we conceive of society as a shared civil project and citizens as free and equal moral persons worthy of respect, terms of social cooperation ought to be ones that all citizens have reason to accept. Thus, justifications of laws by legislators to citizens should be presented on public reason bases. Respecting and engaging cooperatively with one's

³² Larmore (1999), p. 607-8.

³³ Vallier (2015), p. 142.

³⁴ Larmore (1999), p. 608.

fellow citizens lead to the “common ground” we call public reasons.³⁵ Failing to do so is morally disrespectful and insincere. Let me expand on this last point.

Respecting the citizens subject to a law as free and equal moral persons requires an official to defend laws in terms of public reasons that all can accept. Why is it that offering comprehensive reasons for one’s policy position is disrespectful to citizens? Offering a non-public reason defense of a law by appealing to one’s comprehensive doctrine disrespects one’s fellow citizens because respect requires one to treat citizens as free and equal moral persons capable of engaging reasons in the deliberative process involved in justification.

Some political liberals argue that an individual’s public reason defense of a position must be sincere. For example, Micah Schwartzman formulates the following principle:

Principle of Sincere Public Justification (SPJ):

A ought to advocate proposal p if, and only if, A (i) believes that $(R_I \rightarrow p)$, and (ii) publicly asserts R_I as sufficient to justify p ³⁶

Sincerity requires that the legislator attempting to justify a law to the public believes that the reason they offer for the law is both a public reason and that it is a reason sufficient to justify the law. I favor such requirements. Sincerity is necessary for fulfilling one’s duty to respect one’s fellow citizens as moral persons and of one’s duty of civility. If one offers reasons that they cannot sincerely expect others to endorse, then they are not treating their fellow citizens with respect since they are supposedly attempting to justify their positions with reasons they cannot expect others to endorse.

At first glance, it might appear that sincerity would allow comprehensive reasons to sneak into public justifications. One might object to sincerity on the grounds that it does not exclude comprehensive reasons from the domain of public reason. All it requires is that A believes that R_I

³⁵ Larmore (1999), p. 611.

³⁶ Schwartzman (2011), p. 385.

is a reason all could share and justifies p . Since consensus theorists defend exclusive deliberation and SPJ does not contribute to making discourse more exclusive, it serves no meaningful role. Therefore, we ought to disregard SPJ. A is not being insincere and so not disrespecting their fellow citizens if they truly believe R_I justifies p . This objection ignores the fact of reasonable pluralism. Again, reasonable pluralism is the recognition that life in a liberal democratic society characterized by all the freedoms that come with it will include various conceptions of the good life. Reasonable citizens are aware that all citizens do not—and cannot be expected to—share the same comprehensive doctrines. This response also hints at the more complete explanation for why violating one's duty of civility by offering comprehensive reasons in an attempt to justify coercive law is disrespectful and morally wrong.

When a legislator takes part in the deliberative process, they are attempting to convince others that a given law is justified. They are explaining the reasons that they have for supporting the law under discussion and why they think their fellow legislators should also vote in favor of the piece of legislation. They are attempting to justify the law to others. However, in a liberal democracy, they are not simply justifying the law to the other members of their chamber. They are also responsible for justifying the law to the citizens subject to the law. In order to treat those citizens with respect, the legislator must address them as free and equal moral persons. Doing so requires the use of public reasons that the legislator can reasonably expect all citizens to endorse. This requires shared reasons.

Consider an alternative way of framing the issue. Imagine a legislator recognizes that they have the responsibility to justify their positions to their fellow citizens, so they engage in the justificatory process. The official is attempting to convince others that a law is justifiable, so the official is tasked with giving the citizens reasons that the official reasonably thinks that the citizens

could actually accept as justifying the law. By offering non-public reasons stemming from the legislator's comprehensive doctrine and in violation of one's duty of civility, the legislator disrespects their fellow citizens and makes a mockery of the justificatory process. The official attempts to justify a law by appealing to reasons that they cannot expect others to endorse. This is not a genuine or sincere attempt to justify the law at all.

To simplify, an individual engaging in the justificatory process can ask themselves the following question. Can I reasonably or sincerely expect others to accept my reasons as grounds for adopting a particular policy stance without requiring them to make any particular philosophical, religious, or metaphysical commitments—that is, on shared political values alone? If one's reasons do not give them a positive answer to this question, offering those reasons would be a failure to treat others with the respect they are due as persons. It would violate this duty by offering them justificatory reasons that one knows they have no reason to endorse. This is problematic since the motivation for offering justificatory reasons in the first place is to offer one's reasons as sufficient for public justification. It is disrespectful for *A* to try to convince *B* that policy *P* is justified if *A* gives *B* reasons that *A* cannot reasonably expect *B* to agree with. A genuine and respectful attempt at public justification in public deliberations requires *A* having a reasonable expectation that *B* would accept the reasons *A* gives.

This makes it easy to see where our imaginary Senator from above runs afoul of their duty of civility. The Senator has a task, which is to give justificatory reasons for the bill that allows Biblical education in public schools. In order to carry out this task, the Senator needs to offer reasons in favor of the bill that the Senator thinks others could endorse without any particular philosophical, religious, or metaphysical commitments. Due to the fact of reasonable pluralism and general background knowledge about the plurality of comprehensive doctrines that exist in a

liberal constitutional democracy, the Senator cannot reasonably expect others to support the bill on the grounds that the Bible is the whole truth. Thus, the Senator, in supposedly attempting to justify public policy to others, is offering reasons that the Senator cannot expect to have justificatory force for other citizens. This demonstrates how offering comprehensive reasons when public reasons are required violates a moral duty to treat other citizens, who are free and equal moral persons, with respect.

Consensus liberalism, then, is in agreement with convergence accounts that public reason is exclusionary. However, they disagree on the sense in which it is so. Convergence accounts require proposal restraint. Consensus theorists go further by including deliberative principles that require individuals to exclude certain reasons from public deliberation. Attempting to convince others that a law is justifiable by giving reasons that one cannot reasonably expect those others to endorse violates one's duty to respect those others as free and equal persons. Requiring officials to exclude reasons they cannot expect others to endorse creates a duty of civility. Civility demands that discourse in the public political forum takes place in terms of public reasons.

In this section, I have argued that both broad understandings of public reason liberalism are exclusionary, albeit in different ways. Additionally, both views categorize our fictional Senator's actions as morally wrong. The Senator runs afoul of convergent exclusionary public reason by supporting a proposal that is unjustifiable. Their actions are morally wrong on consensus accounts because the reasons they give in favor of the bill are reasons that they ought to exclude from their attempts to justify policy in the public political forum. Is there something that the Senator is morally required to do in response to their own wrongdoing? Can we expect them to "right their wrong?" I now turn to the concept of moral repair.

4 DUE DILIGENCE DUTIES OF MORAL REPAIR

In this section, I argue that government officials who violate the duties of exclusionary public reason have a duty to remedy such violations with some form of moral repair on both consensus and convergence accounts of public reason. I argue for what I call a *due diligence* duty of moral repair in cases of violations of one's duties of exclusionary public reason. This is because the wrongdoer is only responsible for their own actions.³⁷ I examine the different actions wrongdoers might take in order to fulfill their due diligence duties of moral repair depending on whether one favors convergence or consensus liberalism. Using the example of the fictional Senator, I argue that both conceptions require an apology while violating convergent restraint also requires a retraction of one's support of the policy previously defended. On the other hand, consensus accounts will not necessarily require a retraction of support for the bill if the official can provide a public reason defense of the position without appealing to reasons that ought to be excluded from public political discourse.

Exclusionary public reason creates moral duties for individuals in the public political forum. For convergent accounts, this takes the form of proposal restraint. Reason restraint is required by consensus accounts. These duties are *moral* duties of restraint on both accounts. The duty of the civility Rawls and consensus theorists consider binding and the principle restraint Vallier and convergence liberals favor are both moral rather than legal. Neither duty is appropriate for legal enforcement in the laws or constitution of a liberal society. However, this certainly does

³⁷ In what follows, I use 'wrongdoers' to refer to those individuals in violation of the duties created by exclusionary public reason. When explaining the concept of moral repair and speaking of wrongdoers in general, I use the phrase 'moral wrongdoers.'

not mean that moral duties are not important nor does it mean that we cannot have legitimate expectations that moral wrongdoers take certain actions in the aftermath of their own wrongdoing.

The literature surrounding moral repair investigates responses to moral wrongdoing. Key concepts that often come up in discussions on moral repair include apology, forgiveness, relationships, reparations, compensation, and many others. We often think that moral wrongdoers have a duty to apologize for their wrongdoing or attempt to rectify the situation in some other way. Public reason liberals seldom discuss the implications of violating the duties of exclusionary public reason. My aim here is to examine the place of moral repair in relation to violations of the moral duties of exclusionary public reason. If these duties are fundamental moral duties rather than expectations of etiquette, then violations of them require some form of moral repair. What follows is an initial attempt to examine what moral repair might look like in such cases.

The notion that wrongdoers must in some way attempt to right their wrongdoing is not new. However, the study of “moral repair” as a concept itself worthy of in-depth analysis is a relatively recent phenomenon. One of the foundational texts in this growing body of literature is Margaret Urban Walker’s *Moral Repair: Reconstructing Moral Relations after Wrongdoing* (2006). Walker (2006) defines moral repair as “the process of moving from the situation of loss and damage to a situation where some degree of stability in moral relations is regained” (p. 6). Examining moral repair then requires analysis of responses to moral wrongdoing and determining whether it is both possible and necessary to right moral wrong. Moreover, if moral repair is possible and required, we can ask what actions both the moral wrongdoers and those wronged might do to rectify the wrongdoing and repair their relations going forward if they ought to.

It is common to think that moral wrongs ought to be compensated, whether it be through material compensation, apology, or some other means. We think wrongdoers owe those they have

wronged *something*. We can call duties to redress one's wrongdoing duties of moral repair. However, it is not always clear what is owed. Repair is often material. For example, an individual (or their insurance company) who is deemed responsible for an automobile accident might fulfill their duties of moral repair by paying any and all bills associated with the collision, including the other parties' auto-repair costs and hospital bills.

Two considerations are in order going forward. First, framing the discussion concerning moral repair in terms of righting wrongs might be problematic since it might not be possible to right all, or even any, moral wrongs. Perhaps moral wrongs are so substantial that they are ultimately irreparable, or at least cannot be completely repaired. It might not be possible to ever "move past" or normalize moral relations, to use Walker's terminology, in the aftermath of some cases of moral wrongdoing. *Complete* moral repair might be understood as establishing a state of affairs in which moral relations are normalized. Those involved no longer let the wrong impact their *moral* treatment of each other. This might consist in the wrongdoing being repaired, forgiveness being offered by the victim, the wrongdoer apologizes, or the parties involved agree to effectively move past the wrong. There might be cases in which *complete* moral repair seems impossible. The moral relationship between the wrongdoer and victim might be irreparable. Something about the moral relationship remains *off*, and it will never be the same.

Consider the following scenario in which *complete* moral repair might not be possible. Imagine an individual is killed by a drunk driver. This individual is the victim of the wrongdoing, so it naturally seems that they are the person who is owed moral repair. But they are dead. It is not possible for the wrongdoer to normalize moral relations with a dead individual, so moral repair seems impossible. However, we might think that moral repair is owed to another party, such as the victim's family. Drunk drivers responsible for deaths often pay damages, apologize,

experience regret, receive license suspensions, and serve jail time for their wrongdoing, but this is still not sufficient to repair the wrongdoing. The victim's life cannot be replaced, and the wrong done to their family members might not be repairable.

However, even if *complete* moral repair is unlikely or impossible in a scenario, it does not mean that there are no required or appropriate responses in the aftermath of wrongdoing. We do not have to simply move on, and there can still be duties to attempt repair. Even wrongdoers themselves often think they owe their victims or their families something. For example, the drunk driver might recognize they are responsible for the wrongdoing and conclude that they owe an apology, material compensation, a demonstration of respect, and so forth.

This leads to the second clarification. Individual wrongdoers have duties of moral repair, but these duties do not necessarily include a duty to create or produce a morally reparative state of affairs. Moral wrongdoers have what I call *due diligence* duties of moral repair. This means that they have a moral duty to take actions that, given that facts of the situation, amount to a genuine and reasonable attempt to repair relations with those they have wronged. By making a genuine and reasonable attempt at moral repair, a moral wrongdoer does their due diligence to fulfill their duty of moral repair.

Given that complete moral repair takes place when moral relations are normalized, I conceptualize duties of moral repair on behalf of the wrongdoer as due diligence duties for two reasons. The first is that complete repair is not always possible. It cannot be that case that, since complete moral repair is impossible, the drunk driver has no duties of moral repair. Nor can it be that case that they have a duty of complete moral repair. They cannot have a duty to do the impossible. But surely the driver must do *something*, so their duty of moral repair must be a duty to do their due diligence to repair relations. They must make a genuine and reasonable attempt at

moral repair that is appropriate based on the facts of the case. By reasonable, I simply mean that the repair required is appropriate for the context and proportionate to the wrongdoing. For an attempt at repair to be genuine, the wrongdoer must accept responsibility for the wrongdoing and sincerely think that their response is reasonable given the circumstances of the wrongdoing.

The second complication that leads to a due diligence requirement is that establishing normalized relationships is a two-way street. The relationship is not normalized if one individual considers it disrupted, and the moral wrongdoer cannot normalize relations on their own. In other words, both the victim and the wrongdoer must converge on the conclusion (possibly implicitly) that the wrongdoing has been sufficiently morally compensated for in order for relations to be normalized. I understand *moral compensation* broadly as compensation for moral wrongdoing that can come in many different forms. Material compensation, apology, truth-telling, promises of future conduct, and so forth can all serve as forms of moral compensation depending on the context of the wrongdoing. If a wrongdoer genuinely commits reasonable actions of moral repair to fulfill their duties of due diligence but the victim refuses to forgive, the wrong can be morally compensated for without normalized relations. So, due diligence duties are duties to offer or supply moral compensation rather than duties to actually create a state of moral repair. The latter requires acceptance that the wrong has been compensated for by all those involved.

Consider the following example. If you accidentally but negligently bump into a stranger on the sidewalk, you might have a duty to offer a simple apology. For complete moral repair to take place, the stranger would have to accept your apology and forgive you. If they do not forgive you and begrudge you, then the moral relations between the two of you have not been normalized. However, it seems that given you have fulfilled your duties of moral repair in such a case. You

have done all due diligence requires. Genuinely apologizing to the stranger is a reasonable response to and sufficient moral compensation for accidentally bumping into them.

Given that moral repair requires both recognition that the wrong has been compensated for and a return or establishment of normalized relations by both parties, it might appear as though victims can have duties of moral repair. Such a duty would be a duty of forgiveness, and perhaps there are situations in which it seems warranted to claim that someone who has been wronged has such a duty. For example, the individual who is bumped into on the sidewalk might have a duty to forgive (especially if it was clearly an accident and not intentional), but we might be hesitant to claim that the family members of the drunk-driving victim have a parallel duty. Forgiveness as a phenomenon and the possibility of duties of forgiveness raise interesting questions, and there is an ever-growing body of literature on the topic.

The focus of this paper is to examine whether the concept of moral repair has a place in public reason politics. As a result, I focus on a particular type of wrongdoer and whether they might have duties of moral repair. If they have such duties, I outline how they might go about fulfilling such duties. Despite the importance of forgiveness, I do not focus on the victims of wrongdoing and their role in moral repair. Thus, my discussion of moral repair is limited to duties of due diligence on part of the wrongdoer.

5 UNDERSTANDING DUTIES OF REPAIR

In Section 2, I argued that both consensus and convergence liberalism are both forms of *exclusionary* public reason liberalism and that failures by legislators to be exclusive in the manner required by a given conception constitutes a moral wrong. Given this, we might ask whether such wrongs are sufficient to generate duties of moral repair. Perhaps all moral wrongs do not generate duties of moral repair. Perhaps you do not have a duty of *moral* repair in the sidewalk-bumping

situation above. Andrew I. Cohen distinguishes between two frameworks we might use to understand and justify duties of moral repair—associativism and reductionism.³⁸ I argue that it does not matter which of these frameworks one thinks best justifies such duties. Either understanding of the justification of duties of moral repair justifies due diligence duties of moral repair in response to violations of one’s duties to engage in exclusionary public reason.

5.1 Associativism

Associativist accounts of duties of moral repair justify such duties on the grounds of relationships. Relationships can have normatively significant elements that are sufficient to generate duties of repair.³⁹ When the norms of relationships are violated, this ought to be rectified. I argue that consensus and convergent accounts of public reason can satisfy associativist justifications of moral repair.

Consider consensus accounts of public reason. Such accounts conceive of the source of duties of moral repair as grounded in the relationships of equal democratic citizens. The fact that citizens are conceived as free and equal gives rise to significant normative expectations for how they relate to one another. Among such expectations is the duty to offer citizens public reason justifications. Treating others as equals requires justifying one’s decisions to those affected by them. Thus, by offering comprehensive reasons that one cannot expect others to endorse due to reasonable pluralism, a legislator transgresses the norms regulating the relationships between them and those who are subject to the laws. This transgression is a sort of relationship damage. This transgression generates a duty to repair the relationship.

³⁸ Cohen (2018), p. 186-8.

³⁹ Cohen (2018), p. 186-7.

Convergence accounts tend to emphasize coercive power as one reason that public justifications are necessary. We might understand the relationship that is significant in generating duties of moral repair to be one of law-creator and law-follower.⁴⁰ The official plays a role in the codification and enforcement of coercive law. The relationship between legislator and other citizens is characterized by a power dynamic that favors the legislator. However, the legislator is only justified in exercising this power on the grounds that it is justified for the citizens. As a result, if the official offers proposals that are not intelligible for all citizens, then the legislator has violated the norms of the relationship between legislator and the public as conceived by convergence accounts. Thus, there is a duty to repair the relationship.

Alternatively, we might look at both views democratically. Both conceptions of public reason liberalism focus on democratic societies. In such societies, legislators are authorized to take part in the process of creating laws, and their constituents are subjected to those laws. Elected officials in democratic societies are collectively granted the authority to exercise political power by the citizens of that society. Now, of course, the official cannot equally represent the interests of each constituent. However, they can refrain from attempting to exercise power on grounds that their constituents cannot all be expected to endorse. In attempting to justify a law with comprehensive reasons, an elected official transgresses the relationship they have with their constituents, some of whom cannot be expected to agree with those comprehensive reasons. Likewise, the official has a duty to justify the laws they help create to those who must abide by them, especially since the authorization to create laws is given by the citizens subjected to them.

⁴⁰ There is some overlap here with the previous explanation of consensus liberalism. However, the emphasis is slightly different. On consensus accounts, the emphasis is on the fact that legislators and other citizens are free and equal and relate to one another in a certain way. On convergence accounts, the fact that the legislator has influence on the exercise of coercive power plays a significant role.

By failing to exercise political power on grounds acceptable to those who authorized that power, officials transgress the relationships between themselves and other democratic citizens.

The public reason framework provides reasons in favor of duties of moral repair according to an associativist account of such duties. There are normatively significant relationships between elected officials and other democratic citizens, and transgressions of these relationships occur when elected officials violate their duty of civility. Both consensus and convergence accounts give reason to justify duties of moral repair. I now turn to a reductionist justification of duties of moral repair.

5.2 Reductionism

Reductionist accounts can motivate duties of moral repair by appeal to moral duties owed to persons independent of particular relationships.⁴¹ Instead of appealing to any special, reason-giving relationships between elected officials and other citizens, reductionism focuses on explicitly moral duties. Recall that consensus views recognize a moral duty of respect for persons. This duty does not rely on particular relationships, and it applies to all persons at all times. All moral persons are owed respect, and all others have a duty to treat them as worthy of respect. Violating the duty of civility is a violation of the moral duty of respect for persons. Thus, there is also a reductionist explanation of how duties of moral repair arise within the consensus framework. Failing to offer public reasons is a moral transgression independent of special relationships because such actions disrespect moral persons. The moral duty to respect others as persons creates an obligation for all people whenever they interact with others. Thus, the reductionist can justify duties of moral repair by appealing to the fact that any failure to offer public reasons when required can be explained in terms of a violation of the moral duty of respect for persons.

⁴¹ Cohen (2018), p. 187.

Convergence accounts also have a reductionist basis. Recall that they are based in a general presumption against coercion. Coercion is always morally wrong unless it is justifiable for those subject to it. Laws are coercive. Therefore, laws are morally wrong unless they are justifiable for those subject to them. If legislators fail to restrain themselves from publicly supporting or voting for unjustifiable proposals, they attempt to exercise unjustified coercive power. Violations of convergent restraint give sufficient grounds for moral repair because they violate a reductionist moral presumption against unjustified coercion.

In this section, I argued that we can justify duties of moral repair for elected officials who violate their duties of restraint on either public reason framework. I argued that it does not matter whether we accept an associativist or reductionist account as the source of duties of moral repair. Both approaches to public reason can justify duties of moral repair in both associativist and reductionist terms. Public reason liberalism generates such duties on either account. How elected officials might go about carrying out their duties of moral repair when they violate the duty of civility is the focus of the next section.

One might object to the claim that public reason accounts are more suited to reductionist justifications of moral repair. The arguments of Section 2 defend exclusionary public reason on reductionist grounds, so we should focus on reductionist justifications of moral repair. This is a reasonable response to the argument of this section. However, I do not see the need to argue for one account over the other. If public reason liberalism generates duties of moral repair on either account, this is a good thing. It does not matter which approach to justifying duties of moral repair one favors, one can understand public reason as generating such duties. Similarly, one might wonder how reductionist duties explain the process of moral repair. Above, I followed Walker (2006) by discussing the actual act of moral repair in terms of normalizing relationships. If

reductionist accounts do not justify moral repair by appeal to relationship damage, how can moral repair take the form of relationship repair? In response, what justifies moral repair and how moral repair is to be assessed and carried out are two separate questions. Even if we do not think that relationship damage is what justifies moral repair, we can still think that violations of reductionist moral values disrupt relationships and use relationships as a benchmark for moral repair. I now turn to how moral repair might be carried out by legislators, such as our fictional Senator, who have violated the norms of exclusionary public reason.

6 MORAL REPAIR AND PUBLIC REASON

Public reason liberalism provides us with reasons to conclude that our fictional Senator has duties of moral repair. These duties require that the Senator do their due diligence in normalizing the relationship between them and citizens based on the situation. However, it is not clear what due diligence requires. What is required for the Senator to make a genuine and reasonable attempt to rectify their wrongdoing? What follows is an initial attempt to formulate duties of moral repair on public reason accounts of wrongdoing. I argue that both consensus and convergence accounts require the Senator to offer a public apology. Apology alone, however, will often be insufficient. Given their different conceptions of duties of restraint, consensus accounts might require the apology to be paired with a defense of their previously favored position in terms of public reason and convergence accounts require the apology to be coupled with a retraction of support for the policy.

There are various routes to moral repair. For example, a thief might apologize, or, the thief might return, replace, or pay for a stolen item, or both. Let us assume we accept a reasonable standard that the repair owed be proportionate to the transgression. First, there is no obvious

method for determining the material compensation proportionate to failing to offer public reasons. How much does disrespect cost? Likewise, what is the price of exercising unjustified coercion? Remember, public reason liberalism is concerned only with *moral* rather than legal wrongs, so no repair can be enforced. Furthermore, exclusionary duties are duties to all other citizens. Even at a small cost per person, material compensation would be infeasible and likely creates a cumulative burden on the wrongdoer that is disproportionate to the wrongdoing. Therefore, I set this aside. We need another way for our transgressors to fulfill their duties of due diligent moral repair.

Apology is a common example of a morally reparative action. Apologies, like material compensation, can serve as a starting point for moral repair. Apologies commonly acknowledge a transgression, express regret, and accept culpability.⁴² These functions are often part of the process of moral repair. When a victim recognizes that the transgressor finds their own actions morally problematic, repair can take place. For example, if a friend commits a moral transgression by breaking a promise, an apology can be morally reparative by helping to restore trust. The example of bumping the stranger on the street is a case in which due diligence might only require a simple, straightforward apology.

Given the nature of public reason wrongdoing, apology initially appears as capable of serving some morally reparative function. On consensus accounts, apologies can repair relationships by serving as a recognition that a norm was violated. This can reinforce trust and express regret, and the apology itself can express respect by serving as a recognition that some wrongdoing occurred. Thus, it is a way to restore the respect that is expected of the relations between free and equal moral persons. Apology is also a promising option in cases of wrongdoing on convergence accounts. Given that the legislator has supported or voted for a proposal that is

⁴² Cohen (2018), p. 180.

unjustifiable to those subject to it, it is reasonable to expect that the legislator apologize for this wrongdoing. Apologies are an appealing option for moral repair since they are not overly burdensome. They do not require any substantial financial or material compensation, but they can serve many other important functions mentioned above, such as expressing regret.

Another reason to favor apologies as a means of moral repair is that they require a public verbal or written expression that the wrongdoer recognizes that they did something wrong. Material compensation, truth-telling, favor-doing are other options for moral repair, but there is no way to verify that they are genuine. Of course, apologies can be insincere as well. However, they are an improvement over other means since they at least require the wrongdoer to accept responsibility, should not have committed the wrong, and that they regret doing so. So, there are good reasons to include a duty of apology in the duties of moral repair in public reason.

What might such an apology by an elected official who violates the duty of civility look like?⁴³ First, the transgression is a violation of a duty to all democratic citizens. Treating such citizens with respect requires that they be addressed *as* free and equal citizens. Offering comprehensive reasons does not address citizens in this way, so the transgression is committed against all members of the public, even those who agree with the comprehensive reasons because it fails to offer them reasons that they can be expected to endorse without comprehensive commitments. Consequently, the apology for this transgression ought to be addressed to the public. However, there is no need for this apology to be an extravagant affair, but it must be communicated to the public. This might take the form of a social media post, a newspaper ad, or a television commercial. All of these could serve as platforms to communicate an apology to the

⁴³ This paper concerns how elected officials might respond to their own individual wrongdoing. How such individuals might respond to wrongdoing by the state or other state actors is beyond the scope of this paper.

public. Although such an apology might include statements of culpability, regret, and acknowledging a transgression, apology alone might be insufficient.

A simple public apology on its own is not enough to fulfill the duties of moral repair because such an apology faces several practical problems. It would be difficult to confirm that the apology is genuine, and democratic citizens often have little trust in elected officials to begin with, especially those who admit to wrongdoing. Thus, apology alone is likely to do little for moral repair, which means that it fails to give those wronged reasonable grounds for forgiving the transgression or trusting that the wrongdoer will fulfill their moral duties in the future. It does not satisfy the due diligence requirement.

Given that it is very difficult, if not impossible, to verify if an apology is genuine, we might ask if apologies can be supplemented with other actions that might serve moral repair. As long as such possibilities are reasonable responses to the wrongdoing and not overly burdensome, they are good candidates. For violations of civility according to consensus accounts, a reasonable option is that the legislator offer public reasons defend their policy position. Public reasons were morally required in the first place. Their absence constituted the transgression. The official treats other citizens wrongly simply by offering comprehensive reasons in the public political forum, so offering public reasons might be one way to attempt to repair the wrong.

Consider the case in which the official apologizes and retracts support for their previously defended policy alternative. The Senator might publicly state that they were wrong to assert that the Bible being the whole truth is a reason in favor of bill. However, a retraction such as this will often be problematic in practice because it is unlikely to be regarded as sincere by the public. Again, given democratic citizens' distrust in their elected officials, it is not likely that they will receive a retraction as genuine. It is reasonable to suspect citizens to interpret the retraction as an

attempt to “save face.” If one offered a genuine apology and sincerely retracted their support for the position, this might be a viable route to moral repair. However, such a case faces problems, so, assuming they still favor the policy, actually offering a public reason defense of the proposal is a better option.

If an elected official attaches public reasons to their apology, might this help in the process of moral repair? Public reasons treat citizens how they ought to be treated, so offering them would be one way to combat the skepticism an apology alone might face. Although offering public reasons does not erase the previous transgression, they represent a new mode of treatment that fulfills the duty of civility. This treatment would give citizens some grounds on which they can possibly trust or forgive the elected official. Thus, apology alone is not enough for moral repair, but coupling an apology with public reasons that genuinely treat citizens with respect represent a reasonable expectation for actions a transgressor might take in order to fulfill their duties of moral repair. It seems like such an action would make moral repair possible, which is all due diligence requires.

I have just argued that apologies need to be coupled with public reasons to fulfill duties of moral repair. However, one might object that it appears that public reasons are doing the morally reparative work. Why do we need apology? In response, public reasons alone are insufficient for fulfilling duties of moral repair because they do not express any regret or culpability. Moreover, they need not even acknowledge a transgression. Simply offering public reasons makes no claims about the moral status of one’s previous act of offering comprehensive reasons. The Senator has disrespected their fellow citizens by attempting to justify a bill to them on religious grounds. Offering political reasons at a later time does not even necessarily include an implicit acknowledgment that they initially disrespected their fellow citizens. Thus, public reasons alone

do not amount to a real attempt to make moral repair possible. Coupling an offering of public reasons with an apology would be a way for the wrongdoer to fulfill their duty of civility while explicitly accepting responsibility and expressing regret for their wrongdoing. This provides a firmer ground for moral repair by giving the public reasons to forgive or move past the wrongdoing.

Convergence accounts, however, do not have the option of appealing to public reasons to supplement apology since they do not restrain reasons. So, if apology alone is not enough for due diligence, convergence will need another way to express that the apology is sincere and that the wrongdoer accepts culpability. Given that convergence accounts favor proposal restraint, a candidate to supplement apology is a retraction. The official should publicly denounce their support of the policy they previously supported since this policy is not justifiable to all those subject to it. They should have never supported it in the first place. By making it known that they no longer support their wrongdoing and promise not to in the future, the individual can give the public a reason to move toward seeing their relationship as repaired. Supplementing an apology with a retraction of support for an unjustifiable position seems like a genuine and reasonable attempt to fulfill one's duties of moral repair.

Violations of both consensus and convergent duties of restraint in public political discourse are wrongs to the citizens subject to the law. One promising step that legislators might take in righting these wrongs is to offer an apology. Apologies can signal that the wrongdoer accepts responsibility and express regret. Moreover, since they can be easily disseminated to the public, there are reasons to think that due diligence requires an apology. However, apologies are not always genuine, and it is difficult to assess when they are. Therefore, fulfilling one's duties of moral repair might require supplementing apology with other morally compensatory acts, such as

providing public reasons or retracting support for one's position on consensus and convergence accounts, respectively.

7 CONCLUSION

In this paper, I argued that public reason liberalism favors duties of moral repair when legislators fail to practice restraint in the public political domain. The requirements of constraint differ depending on the account of public reason, but consensus and convergence approaches require exclusionary restraint. The former requires legislators to exclude certain reasons from public political discourse, while the latter requires them to refrain from supporting certain proposals of law or policy.

Public reason liberals typically neglect discussing enforcement of duties of restraint. In other words, are there appropriate actions wrongdoers, victims, or even third parties might take in response to violations of such duties? For example, Vallier simply notes that duties of restraint are moral duties rather than legal duties,⁴⁴ so they can only be enforced by “criticism, disapprobation, praise, etc.”⁴⁵ But this is only a brief note on how others might treat a wrongdoer in the aftermath of a wrong. We often think individuals have duties to right their wrongs. It is important to ask if this is the case in public reason liberalism, and, if so, how wrongdoers might go about it. This paper serves as an initial investigation into such matters.

I argued that wrongdoers have duties to do their due diligence to repair their wrongdoing. Since repair requires actions from all parties involved, such as forgiveness by the victim, due diligence requires wrongdoers to make genuine and reasonable attempts at repairing their

⁴⁴ Public reason liberals are in agreement on this point.

⁴⁵ Vallier (2015), p. 142.

wrongdoing. I suggest that legislators in violation of their duties of restraint can do their due diligence by offering a public apology for their wrongdoing and also offering public reasons or retracting support for their position, depending on the nature of their wrongdoing according to a specific account of exclusionary public reason. How moral repair ought to occur is highly dependent on the situation, but these broad suggestions can serve as the basis of future examinations of how the concept of moral repair fits into the public reason framework.

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